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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Jonathan Askin
General Counsel

December 21, 2000

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation in CC Docket Nos. 96-98/99-68

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned docketed proceedings of an oral presentation made on December 20, 2000. The presentation was made by Kelsi Reeves of Time Warner Telecom, Richard Metzger of Focal Communications, Rich Rindler and Mike Fleming of Swidler, Berlin, Thomas Jones of Willkie, Farr, Genny Morelli of Kelley, Jonathan Lee of CompTel, and John Windhausen and Jonathan Askin of the Association for Local Telecommunications Services ("ALTS"). The presentations were made to: Kathy Brown, FCC Chief of Staff, and Anna Gomez, Senior Legal Advisor to Chairman Kennard.

During the presentation, the parties, in an effort to find common ground among all participants, discussed a variety of issues related to the appropriate compensation that should apply to ISP-bound traffic terminated between interconnected local carriers. The parties discussed FCC adoption of policy that would eliminate arbitrage opportunities between carriers, while simultaneously guarding against immediate and dramatic revenue reductions. The parties discussed the Commission's long-standing commitment to cost-based rate-setting and suggested minor modifications to the FCC proposal on reciprocal compensation, which should provide carriers a "soft-landing" as they transition to cost-based levels. By reducing reciprocal compensation rate levels over time, the parties indicated that their proposal would ensure that carriers are compensated for their costs of carrying traffic, while at the same time minimizing arbitrage opportunities. During the meeting, the parties discussed the issues raised in the attached two *ex parte* letters already submitted into the record in this docket.

Pursuant to the Commission's rules, an original and a copy of this notice of *ex parte* contact are being submitted for inclusion in the public record of the above-referenced proceedings. If you have any questions about this matter, please contact me at 202-969-2587.

Respectfully submitted,

Jonathan Askin

cc: Kathy Brown
Anna Gomez

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 18, 2000

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th St. SW
Washington DC 20554

Re: CC Docket No. 99-68

PROPOSED TRANSITIONAL PHASE-DOWN OF RECIPROCAL COMPENSATION

Dear Ms. Attwood:

The competitive industry continues to believe that the Commission's long-standing commitment to cost-based rate-setting best protects American consumers, and should not be abandoned now in the context of reciprocal compensation, particularly given that the 1996 Act requires such compensation be paid. Consequently, the competitive industry concludes there is no reason for the Commission to set aside the numerous state decisions that have ordered reciprocal compensation at rates averaging $0.0027/MOU over the past eighteen months.

The competitive industry also understands that a draft order has been circulated by the Chairman which may contemplate bill and keep as an ultimate goal for reciprocal compensation.

The draft order also apparently contains a transition mechanism, but, absent the changes proposed below, we are concerned that adoption of the order could well create immediate and severe financial burdens for numerous CLECs. Consequently, and strictly in the narrow context of avoiding any flashcut imposition of bill and keep that fails to adequately accommodate transitional issues, and without waiving any of their administrative and judicial rights of appeal, the competitive industry believes the Commission should incorporate the changes described below into its transition plan. We propose only limited changes to the Chairman's current proposal because we believe prompt action is imperative.

Our transitional proposal is based on the following understanding of the Chairman's current plan:

A. The phase-down plan and ultimate rate structure envisioned by the Commission would be voluntary for the states. Any state that chooses to adopt the plan would have to follow the basics of the phase-down plan discussed here.

B. In states that adopt the Commission's plan, the result would be strictly prospective from the effective date of the state's adoption, and would not purport to relate to or affect any reciprocal payments for any period prior to the effective date of a state's adoption regardless of whether that state (or any contracts approved by that state) had previously adopted different approaches to reciprocal compensation, including, but not limited to: (1) bill and keep; (2) reciprocal compensation with true-ups dependent upon a Commission decision; (3) bill and keep dependent upon a Commission decision; or (4) a tiered compensation approach dependent upon a Commission decision.

C. The phase-down plan and ultimate rate structure envisioned by the Commission would apply to ISP-bound traffic as well as all other local traffic, and not distinguish between the two in any way.

D. The Chairman's current proposal contains a three-year transition under which no reciprocal compensation would be paid for in-bound traffic exceeding certain ratio benchmarks that are based upon the inbound and outbound traffic volumes exchanged between two local exchange carriers. Actual exchange ratios would be calculated using specific statewide traffic volumes exchanged between individual pairs of CLECs and ILECs. A 12-1 benchmark ratio of inbound to outbound traffic would apply during the first year, 8-1 during the second year, and 4-1 during the third year.

E. No section 252(i) rights would be affected by the Commission's action.

The only changes being proposed by the competitive industry concern the rate which would apply to traffic above the ratio during the three year transition. Instead of having the above-ratio rate be set at zero, we propose that, for states opting to implement this transition, this above-ratio rate would decline annually to 80%, 65%, and 50% of current state-approved levels (which could be TELRIC in those few states that currently lack approved reciprocal compensation rates) or until they reach a floor of one-tenth of a cent per MOU (i.e. $0.001/MOU), whichever is higher. Specifically, we propose the following:

1. During the first year following state adoption (and we understand that the three year transition starts upon the effective date of state adoption) the ratio would be 12-1. The above-ratio rate would be 80% of the state-prescribed rate, or $0.001/MOU, whichever is higher.

2. During the second year following state adoption the ratio would be 8-1. The above-ratio rate would be 65% of the state-prescribed rate, or $0.001/MOU, whichever is higher.

3. During the third year following state adoption the ratio would be 4-1. The above-ratio rate would be 50% of the state-prescribed rate, or $0.001/MOU, whichever is higher.

We again emphasize that we do not believe any reduction in reciprocal compensation is necessary as a matter of law, policy, or equity. Rather, we conclude only that this phase-down is preferable to a flash-cut implementation of bill and keep. Thank you for your consideration of this important issue.

Sincerely,

John D. Windhausen, Jr.
John D. Windhausen, Jr.
President, ALTS

H. Russell Frisby, Jr.
H. Russell Frisby, Jr.
President, CompTel

cc: Glenn Reynolds
Jane Jackson
Tamara Preiss
Rodney McDonald
Kathy Brown
Anna Gomez
Jordan Goldstein
Rebecca Beynon
Deena Shetler
Kyle Dixon

ALTS

ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

Jonathan Askin
General Counsel

December 18, 2000

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th St. SW
Washington DC 20554

Re: CC Docket No. 99-68

Dear Ms. Attwood:

The purpose of this letter is to respond to claims from the ILECs that the basic phase-down transition proposed by Chairman Kennard is not adequate to reduce the amount of reciprocal compensation currently paid by the incumbents.

The ILECs' most recent calculation of the effect of the proposed three-year transition plan is attached to Verizon's ex parte filed in this docket on December 13, 2000 (attached to this letter for your convenience). However, these numbers are completely unfounded for several basic reasons.

First, the ILECs' numbers are based upon preposterous and unsubstantiated growth assumptions for dial-up traffic usage per on-line household. As AT&T noted in its November 28th ex parte in this docket, the ILEC study assumes without citation a 30% compounded annual growth rate for dial-up traffic. But Merrill Lynch predicts only a 7% per year compounded growth rate for dial-up traffic per household from 1998 through 2003. Id.

Second, the ILECs' claim that individual households will somehow increase their usage annually by 30% is also contradicted by the fact that usage-intensive households are rapidly moving to broadband.[1] Indeed, Morgan Stanley Dean Witter initiated coverage of Genuity, a tier-one ISP, by predicting that dial-up penetration of American households will decline between 2000 and 2003 (August, 2000, page 25). And the recent demise of numerous free ISP services will further depress dial-up minutes over the next three years. Correcting for just some of these errors cuts the ILECs' reciprocal compensation estimates in half (AT&T ex parte filed November 28th filing at 4-5).

Applying the Chairman's proposed ratio approach to hard data for an individual CLEC reveals the truth. Time Warner Telecom (TWTC) has submitted data to the Bureau showing that the original proposal would impose a flash-cut reduction of its reciprocal compensation payments by 68%, 75%, and 86% in each of the three years.[2] Furthermore, the modified transition plan of the competitive industry being proposed today, which applies a reduced rate to above-ratio traffic, would still reduce Time Warner Telecom's reciprocal compensation revenues by 17%, 37%, and 64%.

Given that the New York Public Service Commission has already ruled that Time Warner Telecom should be exempted from application of the ratio plan adopted in that state in light of its robust local network, it is manifest that the modified transition proposed by the competitive industry will decrease the absolute amount of reciprocal compensation paid by the incumbents.

[1] Statistical Research, Inc.'s Fall 2000 Ownership Report shows that the percentage of online households using a cable modem or DSL connection has risen from 5 percent to 11 percent in the last six months. The proportion of online households accessing the Web via a shared phone line dropped 9 percent to 68 percent in the past six months, after staying at a consistent 75 percent from Spring 1998 through Spring 2000.

[2] TWTC serves a diverse customer base. For example, in October 2000, ISPs accounted for less than 4% of TWTC's nationwide customer base, 45% of which is terminating minutes that are ISP-related. Even with this small percentage of ISP customers, most TWTC service areas have traffic imbalances that legitimately exceed a 12:1 ratio.

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ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

Please let us know if we can answer any other questions concerning this important matter.

Sincerely,

Jonathan Askin

cc: Glenn Reynolds
Jane Jackson
Tamara Preiss
Rodney McDonald
Kathy Brown
Anna Gomez
Jordan Goldstein
Rebecca Beynon
Deena Shetler
Kyle Dixon

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December 13, 2000

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Ex Parte: Intercarrier Compensation for ISP-Bound Traffic – CC Docket No. 99-68

Dear Ms. Salas,

On Tuesday, December 12, 2000, Susanne Guyer, Ed Shakin, Frank Gumper and myself, representing Verizon, met with Kyle Dixon of Commissioner Powell's office to discuss intercarrier compensation for ISP-bound traffic. We discussed the Commission's authority to impose a bill and keep regime for reciprocal compensation, as well as its authority to impose interim caps on traffic imbalances. The attached chart was used in the discussions to demonstrate how an interim cap should be set to produce real reductions in reciprocal compensation payments in the first year of the transition.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, and original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceeding indicated above.

If you have any questions regarding this matter, please call me at (202) 463-5293.

Sincerely,

W. Scott Randolph
Director - Regulatory Matters

cc: Kyle Dixon

Potential Cost of Reciprocal Compensation for Terminating Internet Traffic

Residential Internet Usage Forecasts	1999	2000	2001	2002	2003	Avg. Ann. Growth
Total US Households (000s)	103,900	105,000	106,400	107,700	109,000	1.25%
U.S Online Households (000s)	43,600	47,300	51,400	56,900	62,500	9.73%
% Penetration	42%	45%	48%	53%	57%	
Avg Minutes of Access Per On-Line HH Per Day	63	82	106	138	179	30.00%
Avg Minutes of Access Per On-Line HH Per Year	22,888	29,754	38,681	50,285	65,370	
Total Internet Access Minutes -- Residential	997,916,800,000	1,407,383,120,000	1,988,189,008,000	2,861,212,858,400	4,085,651,050,000	42.65%
% Broadband (xDSL, Cable modems, wireless)	4%	12%	20%	29%	36%	
% Dial Up	96%	88%	80%	71%	64%	
Dial Up Access Minutes	958,000,128,000	1,238,497,145,600	1,590,551,206,400	2,031,461,129,464	2,614,816,672,000	28.29%
% of Dial Up Internet Access Minutes That CLECs Terminate	40.0%	50.0%	57.0%	66.7%	66.7%	
Dial Up Internet Access Minutes Terminated by CLECs	383,200,051,200	619,248,572,800	906,614,187,648	1,354,306,065,335	1,744,082,720,224	41.22%

ILEC Reciprocal Compensation Liability Scenarios -- With a Constant Recip Comp Rate of $.004/Min.

	2000	2001	2002	2003
Scenario 1: Cap That Produces Contant Recip Comp Payments				
Cap on Terminating to Originating Minutes		*12:1*	*8:1*	*4:1*
Dial-Minutes that Qualify for Recip Comp Payments	619,248,572,800	*604,409,458,432*	*601,913,806,816*	*387,573,937,828*
Total Recip Comp Payments	*$2,476,994,291*	*$2,417,637,834*	*$2,407,655,227*	*$1,550,295,751*
Scenario 2				
Cap on Terminating to Originating Minutes		*6:1*	4:1	2:1
Dial-Minutes that Qualify for Recip Comp Payments	619,248,572,800	302,204,729,216	300,958,903,408	193,786,968,914
Total Recip Comp Payments	*$2,476,994,291*	*$1,208,818,917*	*$1,203,827,614*	*$775,147,876*
Scenario 3				
Cap on Terminating to Originating Minutes		*5:1*	*3:1*	2:1
Dial-Minutes that Qualify for Recip Comp Payments	619,248,572,800	*251,837,274,347*	*225,717,677,556*	*193,786,968,914*
Total Recip Comp Payments	*$2,476,994,291*	*$1,007,349,097*	*$902,870,710*	*$775,147,876*
Scenario 4				
Cap on Terminating to Originating Minutes		*4:1*	*2:1*	*Bill & Keep*
Dial-Minutes that Qualify for Recip Comp Payments	619,248,572,800	*201,469,819,477*	*150,478,451,704*	*0*
Total Recip Comp Payments	*$2,476,994,291*	*$805,879,278*	*$601,913,807*	*$0*
Scenario 5				
Cap on Terminating to Originating Minutes		*3:1*	*Bill & Keep*	*Bill & Keep*
Dial-Minutes that Qualify for Recip Comp Payments	619,248,572,800	*151,102,364,608*	*0*	*0*
Total Recip Comp Payments	*$2,476,994,291*	*$604,409,458*	*$0*	*$0*

Sources:

Total US Households (000s)	Sanford Berstein & Co and McKinsey & Co., *Broadband!*, Jan. 2000
U.S Online Households (000s)	Sanford Berstein & Co and McKinsey & Co., *Broadband!*, Jan. 2000
Avg Minutes of Access Per On-Line HH Per Year	Nielsen 9/14/00 Press Release; Cahners 3/28/00 Press Release; Thomas Weisel Partners, *Media Metrix's July Internet Usage Trends*, 8/23/00
% Broadband (xDSL, Cable modems, wireless)	Dean Witter Morgan Stanley, The Broadband Report Reaping What You Sow: ROI in the Broadband Market, May 2000
% of Dial Up Internet Access Minutes That CLECs Terminate	ALTS Press Release

For Comparable Forecasts See Also:

U.S Online Households (000s)	Dean Witter Morgan Stanley, The Broadband Report Reaping What You Sow: ROI in the Broadband Market, May 2000
% Broadband (xDSL, Cable modems, wireless)	Hoak Breedlove Wesneski & Co., *The Last Race for the First Mile*, 8/2/00